

78
R E A S O N S

For Setling

Admiralty-Jurisdiction;

A N D

Giving Encouragement to Merchants,
Owners, Commanders, Masters of
Ships, Material-Men and Mariners.

Humbly offered to the Consideration of His
MAJESTY, *and the Two Houses*
of PARLIAMENT.

Printed in the Year, 1690.

R E A S O N S

For Settling the

Admiralty-Jurisdiction, &c.

THere is nothing can conduce more to the Peopling and enriching a Kingdom, or Common-wealth, than a free and open Trade; and as that by Sea is the principal source of such Happiness, it may very well deserve the Governments most particular Care and Application to advance it.

And since this is no other way to be done, but by enabling the King to set forth Fleets for the Merchants Security abroad, and establishing good Laws for defending them in their Rights and Properties at Home, it is most humbly proposed, Whether this may not be effected with the greatest Ease and Advantage, by re-settling the Admiralty Jurisdiction, and restoring the ancient Power of enrolling Mariners.

Usage and Experience were always accounted very good Directors; and therefore, the better to accomplish this Design, it may not be improper, in the first place, to give a short Account of the Methods observed by our Ancestors, in whose times, our Sea-dominion was at the greatest height, and Trade in as flourishing condition as those Ages would admit: and in the next place, to consider of the best means to improve these Methods, and adapt them to the present Times.

The Sea-coasts of *England* were anciently divided into several Vice-Admiralties, viz. 1. *Northumberland*, *Durham* and *York*. 2. *Lincoln*. 3. *Norfolk*. 4. *Suffolk*. 5. *Essex*. 6. *Kent*. 7. *Sussex*. 8. *Southampton*. 9. *Dorset*. 10. *Devon*. 11. *South-Cornwall*. 12. *North-Cornwal*. 13. *Somerset*. 14. *Glocester*. 15. *South-Wales*. 16. *North-Wales*. 17. *Chester*. 18. *Lancaster*. 19. *Westmorland* and *Cumberland*.

Each of these places (the Port of *London* being immediately under the Admiralty Court, as to this matter) had a particular Vice-Admiral; who had Power to hold a Sessions once in the Year, or oftner, if occasion required, and to call before

him, or his Officer, all Sea-faring Men and Mariners, living within his District or Division, and then, and there to enrol all their Names and Places of abode, taking Account likewise, of all Ships within their Jurisdiction.

This was the Method used several hundreds of years since, as appears by certain Maritime Laws and Ordinances, Registered in the ancient Authentick Black Book of the Admiralty ; four Articles of which, are as followeth :

Litera A. n.
1, 2, 3.

1. Puisque l'homme est fait Admiral, premierement luy fault Ordonner & substituer dessoubs luy pour estre ses Lieutenants, Deputez & autres Officiers, des plus loyaux, sages & discrets en la Loy Marine, & anciens coustumes de la Mer qu'il pourra en aucune part trouver, par ainsy que par l'aide de Dieu, & leur bonne & droitture Governail l'office pourra estre gouverne a l'honneur & prouffit du Royalme.

2. *Item*, Apres doit l'Admiral en toute la haste qu'il bonnement pourra escrire a tous ses Lieutenants Deputez, & autres Officiers quelconques par tous les costez de la Mer, parmy toute la Royalme pour savoir combien de Nefs, barges, balengiers, & autres vesseaulx de guerre le Roy pourra avoir en son Royalme, quant lui plest, ou mestier lui fera, & de quel portage ils sont, & aussi les noms des Seigneurs & possesseurs d'icelles.

3. *Item*, Pour savoir aussi par bonne, & loyalles enquestes pris par devant les dits Lieutenants Deputez cu autres Officiers de l'Admiral combien des Mariniers deffensibles sont ou Royalme, & la cause est pourceque s'il soit de ce demande de l'Admiral par le Roy ou son Conseil, qu'ily doncques bonnement & justement a eulx monstrier le nombre tant de nefes, barges, balingers, & d'autres vesseaulx de guerre & aussi les noms des Seigneurs & possesseurs d'icelles, comme le nombre de tous Mariners defensibles parmy le Royalme, & ainsy saura le Roy & son Conseil de certain tousjours sa force par la Mer.

Liter. C. n. 16

If ancient
usage and cus-
tom be Law
in Engl. There

is little doubt
of Their Majesties
Authority for pressing
Ships and Mariners;

but for the
Satisfaction
of the curious,

they may consult
the Records quoted
by Mr. Pryn in his
Animadvers.

Fol. 127. and also
consider the Statutes,
2 R. 2. 4. 18 H. 6. 19. 2 & 3. P.
& M. 16. 5 El. 5. 43 El. 3.

Et pource qu'il a ete plusieurs fois debatue en Angleterre pour les Arrers des Nefs quant le Roy a mande Sergeants d'armes ou autres Ministres pour arrester nefes al ceps du Roy, & les Seigneurs des nefes sont venus devant l'Admiral, & alle-

of Their Majesties Authority for pressing Ships and Mariners; but for the Satisfaction of the curious, they may consult the Records quoted by Mr. Pryn in his Animadvers.

Fol. 127. and also consider the Statutes, 2 R. 2. 4. 18 H. 6. 19. 2 & 3. P.

& M. 16. 5 El. 5. 43 El. 3.

guent

guent que leur nef n'estoyent mye arrestees, ordonne estoit au temps du Roy Richard le premier a Gymmesby par advis de plusieurs Seigneurs du Roialme que quant-nefs serent arrestees pour service du Roy que le Roy escripta par ses Lettres Patentes a l'Admiral d' arrester les Nefs, &c.

If the Sea-faring Men were not obedient to the Vice-Admiral's summons and orders made according to the Maritime Laws, they had a coercive power sufficient to oblige them to be enrolled, and to go into the King's service whenever occasion required.

This method of raising Sea Men was continued in good order down to the end of the prosperous Reign of Queen *Elizabeth*, from which time it began to be neglected, and so dwindled by degrees, till at last the use and practice of it quite vanished, insomuch, that at this day the very remembrance of it is almost lost; and 'tis not at all strange that it should be so, if we consider the temper of King *James* the first, the circumstances of King *Charles* the first, the late troubles, the remissness of the Reign of King *Charles* the second, and the designs of the late King.

During the two last Reigns, who would not think but the design was to transfer the Sovereignty of the Seas, and trade of the World to *France*, since such Industry was used by the Kings themselves, not only to instruct the French King in the building Ships of War, and setting out Fleets, but also in the giving him assistance in the compiling of his Sea-laws, set forth in the Ordinances of that King in the year 1681. The French had from hence also the first footsteps of their exquisite method of enrolling Mariners. And if it shall be thought fit for the Kingdoms service, or in any measure conducing to our Happiness, why shall we not follow likewise the more glorious Example of our present King, in endeavouring to retrieve it? We have certainly the greatest motives that ever English Men had, to excite every one in his respective station, to give his Majesty those hearty assistances as may under the blessing of God regain the betray'd honour of the Nation, and settle the Peace, Plenty, and Glory thereof, for which, next to the establishment of our Religion, our Royal Leader hath hazard-
ed.

hazarded more than ever any of our Kings did before him.

And therefore since a ready way of raising a sufficient number of Seamen to Man the Fleet, is of the greatest concern in this affair, and the encouraging of them voluntarily to enter into their Majesties service, is of no less importance, it is humbly proposed whether this may not be done most effectually by improving the ancient Methods of pressing Seamen with a Bill in Parliament, to this purpose, viz.

1. That such Sea-men as shall voluntarily enrol themselves in the Admiralties or Vice-Admiralties, may be exempt from petty Offices in the Parishes where they live, and also from the payment of Parish-duties, Taxes and the like, during their lives, or so long as they shall continue enrolled.

2. That all Prizes be divided into three parts, one third to the Captor, and his Ships-Crew, another to go to the Chest at *Chatham*, towards a Provision for sick and wounded Mariners, and the Widows and Children of such as are slain; the remaining third to pay the charge of Prize-Officers.

3. That the Act of Parliament 43. *Eliz.* 3. concerning the relief of Soldiers and Mariners be amended, and the Money collected by vertue thereof, transmitted to the *Chatham Chest* for the uses aforesaid: That Money amounts to about 14000 *per ann.* and may with care be made as much more if it shall be found requisite, and as it is now ordered is of little or no use to the Government.

4. If it may consist with their Majesties affairs that the wages of Captains, Officers and Seamen be a little advanced, they being not so good (considering the present value of Money) as they were formerly.

5. That such Mariners as shall not voluntarily enrol themselves or appear upon the Vice-Admirals Summons, or stand out till they are pressed, shall not have the benefit of the aforesaid Priviledges and Exemptions.

6. That no Captains, Commanders, or Seamen remain in Foreign Service in time of War, without License, and that they return upon their Majesties Proclamation, under such a penalty as shall be thought fit.

If such a reestablishment of the Admiralties, Vice-Admiralties

ralties weremade, besides, the benefit of easily supplying the Fleet with Mariners, these further advantages would accrue to their Majesties and such of their Subjects and Allies as should be concerned in Sea-affairs, which will tend very much to the advancement of Trade and Navigation.

1. In time of War the Officers of the several Vice-Admiralties, might take the care and charge of all Prizes brought into their respective Districts, which would make the business much more easie, and also save a great part of the charge to their Majesties; for it may be easily demonstrated wheever it shall be required, that this business may be managed for own third part of the proceed of Prizes, and the other two thirds may be applied to the Chest at *Chatham*, and given to the Captor and his Crew, as is before hinted

2. Their Majesties and the Lord Admiral's Rights and Perquisites in time of Peace as well as War would be preserved, whereas at present no manner of care is taken thereof, notwithstanding that they are many times of a considerable value.

3. The Customs of Goods Ship-wrecked as well as the Lord Admiral's due will be better preserved, and their Majesties will not be so easily defrauded thereof by People that steal such Goods, or by inferiour Officers conniving at, or combining with them: not only because the Vice-Admirals, who have the care thereof are usually Noblemen, or Gentlemen of the best Qualities and Estates, and so have great Authority and Power in their several Countries, but also because the Vice-Admiral or his Officer, and the Customer, will each of them be obliged to set a Lock on the saved Goods, and one will be a check upon the other.

4. Where Merchants are in distress at Sea near the Shoar, or run a ground, the Officers of the Vice-Admirals would be ready to assist, knowing that they shall be recompenced according to their pains, and punished if they refuse: Whereas at present the Country People make a prey of those miserable Merchants, and will afford no manner of assistance, but rather contrive all they can that the Ship may be cast away, nay many times are so barbarous to kill or drown People making escape to land, that thereby they might have a pretence to a Wreck.

5. When

5. When Ships or Goods are cast away, and any part thereof driven on Shoar, the Vice-Admirals would take care to keep off the Rabble, and secure all for their true Proprietors, upon moderate Salvage, whereas at present every one taketh away what he can get, and no remedy.

6. If the Vice-Admirals or their Officers happened not to be present at the time when any Ship was cast away, or Goods driven on Shoar, they would as they did usually in that case heretofore, issue out Commissions of Enquiry, or procure such Commissions from the High Court of Admiralty, and summon what Persons they please before them, and so examine by Maritime evidence, and make immediate restitution of all that was saved to the Owners upon such Salvage as was meet, and punish all the Offenders that stole away, or embezeled the said Goods; whereas that Jurisdiction being now interrupted, there is no relief for the Sufferers but by way of *Trover*, *Trespass*, or other Actions at Common-Law, which must be brought separately against the several Parties offending; the multiplicity of such suits will in the end but add to their Affliction in spending their time and money; for many times at the last, when they have stayed half a year or more for the Assizes, and those things are brought on to a trial, it so happens that the Witnesses (whose whole livelihood consists in trade and being on board Ships) are gone to Sea, and so Evidence cannot be brought *Viva Voce* to prove the interest in the Goods, as those ways of Action require.

7. Mariners will have a quick and easy dispatch in the Admiralty Courts, they being always open and ready to determine at one hearing in a Week's time, or less, whenever they come on Shoar; and they may also joyn a whole Crew in one Action, whereas at Common Law they must be several, and must also attend the Terms or Assizes, which they cannot do without losing their employments.

8. Builders of Ships and Material-Men, who furnish them with all sorts of Provision for setting them forth to Sea, would in the Admiralty Courts have likewise a quick dispatch and remedy against the Ship by them built, repaired and furnished; whereas at present if the Party that they contracted with for the same, proves insolvent, and procures a Prohibition, which is usually done, they have no
remedy

remedy at all, which is a great Discouragement to setting out of Ships, and has occasioned frequent and very grievous Complaints.

9. Upon the Establishment of those Courts, the Fisheries on all the Coasts and Navigable Rivers would be preserved ; about which, no effectual care is taken at the present.

10. All Annoyances in Ports and Navigable Rivers would be presented in the Admiralty-Courts, and Offenders punished, and made responsible for Damages done thereby ; which of late has been neglected, and no Relief to be had for such as have suffered thereby, especially, where a Ship or Anchor doth Damage, and the Master thereof proves insolvent.

11. The Re-settling of these Courts would be an Encouragement to Men of Parts, to apply themselves to the Study of the Laws of Nations, and of the Sea ; whereas at this time, that Profession, heretofore thought to be of some use to the Government, seems to be altogether discontinued and neglected. However, it is not the benefit of any Profession that is to be regarded in this matter, but the general Advantage of the People, for which end all Laws are made ; and if those Laws afford the best Remedy, in all reason, they ought to take place, and be promoted.

The Common Law, although most excellent in its kind, yet being framed for Land Affairs only, will be found too narrow for the Decision of all the Differences arising among Sea-faring Men and Merchants. Nay, the very *Roman* Laws acknowledged by all to be the most comprehensive, are deficient in those Cases, unless they take in the Maritime Laws, the excellency of which doth not only consist in proper Rules, made by the long Observation of Traders, but also, in the incomparable dispatch that is given to Maritime Affairs at all times and seasons ; a thing absolutely necessary for the Encouragement of Trade and Navigation, and no where else to be had, but in the Courts of Justice, Established for that end and purpose : And this may be plainly demonstrated in the following Cases. Concerning,

1. Building, Repairing, Victualling, and furnishing Ships to Sea.
2. Contributing towards setting forth upon Voyages.
3. Cases of Bottomry.
4. Contracts made beyond the Seas.

B

5. Damages

5. Damages on the Sea, and Navigable Rivers.
6. Mariners Wages.
7. Freight and Charter-Parties.
8. Misdemeanours and Nufances in Navigable Rivers.
9. Foreigners Debts.

Builders and
material Men,
have the best
Remedy for
their Debts
in the Admi-
ral.

1. By the Sea Laws, the Ship is liable to the Builders, Amenders, and Victuallers thereof: But by the Common Law, the Person that made the Agreement, who often is an insolvent Master, or Part-Owner, and sometimes set up for that very end, is only liable; so that if the Builder, Repairer, or Victualler, should be constrained to sue at common Law, they would not only lose their chief Security, but would also be forced to bring each Man his separate Action; whereas they might be all joyned in one Action in the Admiralty.

Besides, the Ship or Vessel being proceeded against in the Admiralty, every Part-Owner is liable for his share; whereas, if the Master or Part-Owner that made the Contract, be sued at Common Law, if he be solvent, will be constrained to pay the whole; and yet many times cannot recover the respective shares of his Part-Owners; at least, without beginning another Suit in *Chancery*.

The Ad-
miralty to or-
der Ships to
be set out to
Sea, although
some Part-
Owners re-
fuse to con-
tribute.

2. If a Part-Owner refuses to contribute to the setting out of a Ship, the Admiralty-Court uses to take Bail of those that would set the Ship forth, to return her within a competent time, or else to pay the other Part-Owner that refuses to contribute for his Part, according to an Appraisal then made: And if this Practice of the Admiralty should be interrupted, it would be in the Power of one cross Part-Owner to keep the Ship by the Walls, the Consequence whereof may be easily imagined; and yet the Admiralty is many times obstructed in the Cases following: *Viz.*

1. Differences about setting forth Ships upon Voyages, often happen, in regard more parts are sold than are in the Ship; and then, if the Admiralty goes to examine into the Truth of such Bills of Sale, the Party obtains a Prohibition.
2. Sometimes a Part-Owner mortgages his Part, and both the lender and borrower come in upon the Proceedings of the Admiralty to contribute, and if any Party cannot obtain his end, he presently moves for a Prohibition.

3. Fre-

3. Frequently a Part-owner that is called to Contribute, will first desire that the Master may give his Accounts, which the Court cannot in Justice deny ; and yet if it be ordered, such cross Part-owner has his end, and immediately thereupon obtains a Prohibition or an Injunction ; in all which cases it is requisite that the Admiralty that has an undoubted Jurisdiction in the principal Cause of Contributing to set a Ship forth, should likewise have Power to Determine those incident Questions, or else Trade and Navigation will be much discouraged.

3. By the Common Law the Master cannot Pawn the Ship for Necessaries, altho in the greatest Extremity, and therefore a Voyage is many times lost ; but by the Laws of the Admiralty the Ship is chargeable upon Bills of Bottomry, provided that the Money advanced be proved to be laid out for things actually employed in and about the Ship, being in absolute necessity, and without which she could not proceed, whereby the Voyage is performed : And if the Admiralty Jurisdiction be obstructed in this, a necessary expedient of Navigation would be lost, and our Ships when driven into Foreign parts, must lye there, till the Master can send home, and procure Money to be remitted to him ; whereas the Ship with other Nations is the standing Credit in such cases of Necessity.

4. Contracts made beyond the Seas concerning Maritime Affairs may more conveniently be tried in the Admiralty, than at the Common Law, because the Witnesses cannot oftentimes attend at the Tryal, as the course of that Law requires ; but in the Admiralty they may be at any time taken in Writing, or if there be occasion, examined by Commission in Foreign parts.

Contracts beyond Sea are made by the Rules of the Maritime Laws, and by Persons Experienced therein, and therefore Foreigners have reason to expect to be Tried by the same Laws here, as well as in their own Country : For if the Validity of such Contracts should be Tried by the Common Law, which differs from the Rules of the Maritime Laws, the Contract that was as well and firmly made by them, as was possible, may in the end have no effect and force.

Damages
at Sea, and in
Navigable
Rivers.

5. If Damages happen by ill Stowage, or Insufficiency of the Ship, or by reason of Storms, or the like, there are known Laws whereby the Admiralty Court uses to Proceed.

If Damage be done by one ship running against another at Sea, or in Navigable Rivers, or by Anchors for want of Buoys, or the like, the utmost remedy that the Common Law gives, is against the Master and Mariners, which are for the most part insolvent, unknown, or absent : In all which Cases the Laws used in the Admiralty give remedy against the Ship.

In case of the loss of a Ship before it comes to the Port of Delivery, by the Maritime Laws the Mariners shall receive Wages, and the Owners Freight to the last Port of Delivery and no farther ; but by the Common Law for so long as they have Served, loss or not loss they may recover : Likewise in case of Average or casting Goods over Board in a Storm, the Master, Mariners, and Owners shall bear their proportion of the Loss : which things altho they are very just and equitable, and great obligations to use care and diligence, yet are unknown and not observed in Proceedings at Common Law.

Mariners
Wages.

6. If the Mariner knows he must Sue for his Wages in the Admiralty, and not at the Common Law, he will be thereby obliged to more Diligence and Obedience : For if he be Mutinous, Disobedient, or Deserts the Ship, he makes a total Forfeiture of all his Wages : If he purloyns or embezzels any of the Goods, or be faulty in the due Stowage thereof, or damage happens for want of Pumping, or through his default, his Wages will be lyable to a proportionable satisfaction ; whereas at Common Law, the Mariner will recover his Wages for so long time as he has Served, and leave the Commander or Owner of the Ship or Goods, to seek his Satisfaction for the Damages aforesaid ; and this may also be done by Letter of Attorney, and so there is no remedy, which is a great discouragement to Foreigners to lade their Goods on *English* Vessels. And as the Mariner is Punished if he be Faulty, so he has an easy relief in the Admiralty, if he doth his Duty.

The necessity of a Mariner's condition requires a quick dispatch, which is accordingly provided for by the Court of Admiralty, kept weekly in the Vacations, as well as in the Terms : And altho Forty Mariners may be included in one Action, yet the whole may be Determined in a Weeks time ;
whereas

whereas, at the Common Law, every Mariner must bring his several Action, to the great charge of the several Defendants as well as themselves, and must all attend till the Term or Assizes for a Tryal, and perhaps at last want evidence, when in the Admiralty he can have the Oath of the Contractor, for discovering the Contract, which is usually private, and not to be proved by Witnesses. Besides by the course of Common Law the remedy for the Mariner is only against the Contractor, who may not be found, or else insolvent; but in case he be found, and solvent there is another inconvenience on the other side, for the Contractor will be forced to pay the whole Wages, and yet many times cannot recover the shares that are due from his part-owners, without a Chancery-suit; whereas in the Admiralty, the Mariner may have relief against the Ship or Freight that is due, and the whole difference be determined at once.

7. There is so necessary a relation betwixt Freight and Wages, that it will be very inconvenient to try them in separate Judicatures. Because, Freight
and Charter-
Parties.

1. Usually the Wages are paid out of the Freight.

2. There be divers cases wherein Mariners Wages are to be abated, in respect of an abatement of Freight, as in case of loss or spoiling the Merchants Goods.

3. If the Master and Owner are sued in the Admiralty for Wages, and forced to sue at Common Law for Freight out of which they should pay such Wages, perhaps a Judgment may pass against them immediately upon a summary hearing in the Admiralty, and yet they shall not be able to recover their Freight, in three Months time or longer at the common Law.

4. There is a necessity in many cases to depart from the Letter of the Charter-Party, otherwise the Merchant, Master and Owner may be ruined. This the Maritime Laws and course of Admiralty doth permit, which the Common Law doth not. For instance,

A Contract is made for six months, payable monthly by the Charter-Party; yet if within the time the Ship be embargoed, no Freight shall be paid for that time; likewise, if the Goods perish before a Port be made, there is no Freight or Wages to be paid.

5. The

5. The Freight of one Voyage is the supply of another, and therefore requires a very quick dispatch, for the advancement of Trade and Navigation, which is settled by the course of Admiralty, and cannot be by the course of Common Law.

6. The Freighter may be upon or beyond the Sea, and cannot be arrested, or maybe insolvent, whereby the Master and the Owner of the Ship is remediless at the Common Law; but by the Maritime Law the Goods may be arrested, and upon default condemned for the payment of the Freight; and this is the great security of the Master and Owner.

7. If Freight must be sued for at Common Law, the Master and Owners of the Ship may sue for the same by Letter of Attorney, and the Freight shall not be stop'd for damage done to the Goods, or embezelments: For the course of Common Law is not to stop by way of compensation, but a Verdict passes for the Freight upon the Charter-Party, according to agreement, and so the Owner of the Goods is defeated of his satisfaction, according to the Maritime Law for damage, or embezelments, besides the inconveniency of multiplying Actions; whereas the whole may be more properly decided, by one and the same Action in the Admiralty, and many times is done upon a summary hearing, in a Week or Fortnights-time, by which means, the great expence of Money and Time, two of the [most necessary supplies of Trade is prevented.

Misdemeanours and Nufances in navigable Rivers. 8. Misdemeanours and Nufances in navigable Rivers did formerly, and may again with great conveniency be settled under the Admiralty Jurisdiction. The Common Law doth not, and if the Admiralty should not intermeddle, there will be a failure of Justice in those cases.

Foreigners debts. A Merchant lives beyond Sea, or cannot be found, but has a Ship come into a Port, or Navigable River, or it may be, has Goods on Board, and owes some of Their Majesties Subjects Money; one of these Arresteth the Ship or Goods by an Admiralty-Warrant, and thereupon Bail is given to the Action: Is it not reasonable that Their Majesties Subjects should proceed to Sentence, and have the benefit of the Law of

of Nations? Shall a Prohibition be sent to stop Proceedings, when the Common Law can give him no Remedy? Or, that one of Their Majesties Courts should hinder the other, when they can give no manner of Relief themselves? This is certainly to be redressed, if Trade be to be encouraged, since it preserves Foreigners and Fugitives from paying their just Debts, by reason that their Persons cannot be apprehended.

If these Matters may be thought fit to be resetled in the Admiralty Court, it is humbly desired, That leave may be obtained for bringing a Bill into Parliament for that end, so that it may be positively determined, what Causes shall belong to that Jurisdiction: For the old Statutes that restrain it, as they have in the late Reigns been put in Execution, are the terror of Merchants, Owners, Material-Men, and others that live by Sea-Trade, insomuch, that they dare not think of suing in the Admiralty, for their just Damages and Debts, contracted by Maritime Employments, but are forced contentedly to sit down with such their Losses, for fear of being sued at the common Law, upon the Action of double Damages, which is very hard; when thereby they are not only deprived of the best Relief, but in many of the foregoing Cases, they have no ways to begin an Action at Common Law.

This Jurisdiction has been several times settled, particularly by the King in Council, in the year 1632. after which it being interrupted, it was in the late times thought necessary to be resetled by Ordinances of Parliament, as may be seen in *Scobell's Collection*, C. 112. *Anno* 1648. f. 147. and C. 23. *Anno* 1649. f. 16. Since the Restauration it has been again interrupted by Prohibitions, which gave occasion for several Petitions from many considerable Merchants, Masters, Owners, and Material-Men; one of which Petitions is hereunto annexed, but they could have no relief during the two last Reigns. However it is hoped, that this Parliament will restore so necessary an encouragement of Trade and Navigation, the cheifest Wealth and Support of the Kingdom.

It must be expected, that some of the common Lawyers will oppose such a Bill, for the same reasons that some Civilians will promote it: But either of their private Advantages is not to be regarded, but only the publick Good. It may be easily demonstrated, that the Admiralty anciently had
cogni-

cognizance of many more Causes than are above-mentioned ; And on the other side it is as plain, that Prohibitions have been awarded in most, if not all of them : But Arguments drawn from thence, would do no more than tell the World, that one Jurisdiction oppressed the other, according as it had Power, and between both, did grind and harress the Subject, and is a better reason for settling the Jurisdiction, than for serving the private ends of either Party. And there need be no more other weight laid upon what is urged from thence, but rather to pass by all Disputes of that kind, and not so much examine, whether Prohibitions have been duly or unduly sent to the Admiralty, of which there will be no end ; (as may appear by the several fruitless Tracts that have been published to that purpose on each side,) but rather to consider, what is fit and expedient to be done for the general Advantage of the Kingdom ; and what Courts, what Laws, and which Profession can most easily and readily administer Justice to the Subject in the foregoing Cases.

APPEN-

APPENDIX

At Whitehall the 18th of February, 1632.

Present

The King's Most Excellent Majesty.

Lord Keeper,	E. Holland,	L. Cottington,
L. Archb. of York,	E. Danby,	L. Newburgh,
Lord Treasurer,	L. Chanc. of Scot.	Mr. Treasurer,
L. Privy-Seal,	E. Morton.	Mr. Comptroller,
Earl Marshal,	L. V. Wimbledon,	Mr. V. Chamberl.
L. Chamberlain,	L. V. Wentworth,	Mr. Secr. Coke,
E. of Dorset,	L. V. Falkeland,	Mr. Secretary
E. of Carlile,	L. Bp. of London,	Windebancke.

THIS Day His Majesty being present in Council, the Articles and Propositions following, for the Accommodating and Settling the Differences concerning Prohibitions arising between His Majesty's Courts at *Westminster*, and His Court of Admiralty, were fully Debated and Resolved by the Board. And were then likewise, upon reading the same, as well before the Judges of His Highness's said Courts at *Westminster*, as before the Judge of His said Court of Admiralty, and his Attorney General, agreed unto, and Sub-signed by them all in His Majesties Presence. And the Transcript thereof ordered to be entred into the Register of Council-Causes. And the Original to remain in the Council-Chest.

1. If Suit shall be commenced in the Court of Admiralty, upon Contracts made, or other things Personally done beyond the Sea, or upon the Sea, no Prohibition is to be awarded.
2. If Suit be before the Admiral for Freight or Mariners Wages, or for the Breach of Charter-Parties, for Voyages to be made beyond

beyond the Sea, though the Charter-Parties happen to be made within the Realm, and although the Money be payable within the Realm, so as the Penalty be not demanded, A Prohibition is not to be granted. But if Suits be for the Penalty, or if the Question be made, whether the Charter-Party were made or not, or whether the Plaintiff did Release, or otherwise Discharge the same within the Realm, That is to be tried in the King's Court at Westminster, and not in the King's Court of the Admiralty; so that first it be denied upon Oath, that a Charter-Party was made, or a Denial upon an Oath, tendered.

3. If Suit shall be in the Court of Admiralty, for Building, Amending, Saving, or necessary Victualing of a Ship against the Ship it self, and not against any Party by Name, but such as for his Interest makes himself a Party, no Prohibition is to be granted, though this be done within the Realm.
4. Likewise the Admiral may enquire of, and redress all Annoyances and Obstructions in all Navigable Rivers, beneath the first Bridges that are any Impediments to Navigation, or Passage to or from the Sea; and also try Personal Contracts and Injuries done there, which concern Navigation upon the Sea: And no Prohibition is to be granted in such Cases.
5. If any be Imprisoned, and upon Habeas Corpus, if any of these be the Cause of the Imprisonment, and that be so Certified, the Party shall be Remanded.

Signed,

Tho. Richardson,	William Jones,	Robert Barkley,
Rob. Heath.	George Croke,	Franc. Crawley,
Humf. Davenport,	Tho. Trevor,	Henry Marten,
John Denham,	George Vernon,	William Noye.
Richard Hutton,	James Weston,	

Examined T. Meautys.

At

At Whitehall the 22d. of February, 1632.

Present,

Lord Keeper,	L. V. Falkeland,
L. Archbishop of York,	L. Cottingham,
L. Privy-Seal,	L. Newburgh,
Earl Marshal,	Mr. Treasurer,
L. Chamberlain,	Mr. Comptroler,
E. Salisbury,	Mr. Secretary Coke,
L. V. Wentworth,	Mr. Secretary Windebanck.

IT was this Day thought fit and Ordered, That such Prohibitions as have been sent into the Admiralty-Court, from any of His Majesty's Courts at *Westminster*, falling under the Rules contained in the Articles Agreed on, and Signed in His Majesty's Presence, the 18th of this Instant, as well by all the Judges of His Majesty's said Courts at *Westminster*, as by His Judge of the Admiralty, and his Attorney General, should be with-drawn, and superseded; whereof the Judges of the said Courts from whence such Prohibitions have Issued, are hereby prayed and required to take Knowledge, and to give Order therein accordingly.

Examinat Meautys.

The Jurisdiction of the Court of Admiralty, Sealed.

Scobell; Col.
f. 147. Cap.
112.

THE Lords and Commons assembled in Parliament, finding many Inconveniences daily to arise, in relation both to the Trade of this Kingdom, and to the Commerce with Foreign Parts, through the uncertainty of Jurisdiction in the Trial of Maritime Causes; do Ordain; And be it Ordained by Authority of Parliament, That the Court of Admiralty shall have Cognizance and Jurisdiction against the Ship or Vessel, with the Tackle, Apparel, and Furniture thereof, in all Causes which concern the Repairing, Victualing, and Furnishing Provisions for the setting of such Ships or Vessels to Sea, and in all Cases of Bottomry; and likewise, in all Cases of Contracts made beyond the Seas, concerning Shipping or Navigation, or Damages hapning thereon, or arising at Sea in any Voyage; and likewise, in all Cases of Charter Parties, or Contracts for Freight, Bills of Lading, Mariners Wages, or Damages on Goods laden on Board Ships, or other Damages done by one Ship or Vessel to another, or by Anchors, or want of laying of Buoys; except always, that the said Court of Admiralty shall not hold Pleas, or admit Actions upon any Bills of Exchange, or Accounts betwixt Merchant and Merchant, or their Factors.

And be it Ordained, That in all, and every the Matters aforesaid, the said Admiralty Court shall and may proceed, and take Recognizances in due form, and Hear, Examine, and finally End, Decree, Sentence and Determine the same, according to the Laws and Customs of the Sea, and put the same Decrees and Sentences in Execution, without any Let, Trouble, or Impeachment whatsoever, any Law, Statute, or Usage to the contrary heretofore made, in any wise notwithstanding; saving always, and reserving to all, and every Person and Persons that shall find or think themselves aggrieved by any Sentence Definitive or Decree, having the force of a definitive Sentence, or importing a Damage not to be repaired in the definitive Sentence, given or interposed in the Court of Admiralty, in all or any of the Cases aforesaid, their Right of Appeal in such Form as hath heretofore been used, from such Decrees or Sentences in the said Court of Admiralty.

T O

T O T H E

King's Most Excellent Majesty.

A Copy of
the Petition
to K. C. II
mentioned p.
13.

The Humble Petition of several Merchants, Owners, and Masters of Ships, Victuallers, and Material-Men, belonging to the City and Port of London.

Sheweth,

THat it has been anciently the Wisdom of the Kings of *England*, your Majesties most Royal Progenitors, so to provide for the Wealth and Good of Commerce, and Navigation, as to give it all Encouragement, and to remove all Obstructions from it, your Wealth, Happiness, and Honour, much consisting in it.

And more particularly, your Majesties most Royal Father of blessed memory in the year 1632. taking notice of some differences concerning Prohibitions then arisen; betwixt his Majesties then Courts at *Westminster*, and his Majesties Court of Admiralty, was graciously pleas'd to hear them Himself in full Council, and upon full Debate thereof, had the 18th. of *February*, 1632. Propositions for accommodating thereof were by his Majesty, and the Board resolved upon, and upon reading thereof, as well before the Judges of his Majesties Court at *Westminster-Hall*, as before the Judge of his Highness's said Court of Admiralty, and his Attorney-General, agreed unto, and subscribed by them all in his Majesties presence, and entred in the Council Book, and the Orig'nal to remain in the Council-Chest, a Copy of which Order, Agreement, and Propositions is hereunto annexed. †

That the same Order, so made by your Majesties said Royal Father and the Board, and agreed unto and subscribed by all the then Judges of *England*, did very much tend

† See the
Order above
p. 15.

to

to the Advancement of the Navigation and Commerce of this Nation, to the Encouragement both of the Merchants and Seamen, to the credit of Shipping with the Material-Men, to the furtherance of Ship-masters, and Building of Ships, the Wooden Walls of the Kingdom, and to the keeping a right understanding abroad ; for that the Foreign Contracts made beyond the Sea, and the matter of Charter-Parties for Voyages, all Ship-building, Repairing, Victualling of Ships, Mariners Wages, and other matters of meer Admiralty, did from thence forth proceed in their due course in the said Court of Admiralty, by the Rule of the Civil and Maritime Laws, well known abroad as well as here, and that without either being Prohibited or Interrupted : By which Encouragement, and for that as well the People here, as Foreigners, had speedy Justice in the Admiralty, by one Common Rule well known to them all, more Ships were Buildd, Freightd, set out to Sea, more Voyages and Returns made, Commerce flourished, the Wealth of the Kingdom encreased, and his late Majesties Customs and Revenues were advanced.

But for as much as there have been of late Obstructions arisen by the Grant of Prohibitions in causes of Charter-Parties, Repairing and Building of Ships, Mariners Wages, and other the causes and cases so settled as aforesaid by his late Majesty and the Board, with the consent and agreement of all the then Judges ; Your Petitioners do sensibly perceive, that unless by the Piety, and Wisdom of your Majesty, your Majesties Court of Admiralty be established in its Jurisdiction, that it may minister due Justice in all these and other cases of Admiralty, without being Prohibited or Obstructed ; The building of Ships will be discouraged, the Material-Men will not trust upon the credit of the Ship, fewer Voyages to Sea, and Returns from thence will be made, Trade and a right understanding abroad (especially since all such causes, and matters are abroad referred to the Admiralty) will decrease, and your Majesty's Customs be lessened, and Ship Masters, and Seamen, as well as Merchants be endamaged, and much more Inconveniences ensue also.

*The Petitioners, who do heartily upon their bended Knees
bless God for your Majesties most Happy and Glorious
Restauration, to your Crowns and Kingdoms, and do
Humby*

Humbly and Devotedly pray that the same may Flourish, and that your Majesty may enjoy a Long Peaceable and Prosperous Reign, do humbly submit it to your Majesties most Wise and Prudent consideration, whether your Majesty in a matter of this Universal Concernment, will not be pleased upon the perusal of the said Order annexed, to tread in your Majesties most Royal Fathers Steps, and to call your Majesties Judges, or such others as your Majesty shall hold requisite to be present at your Majesties Council Board, and cause the said former Order to be renewed and confirmed, and to be inviolably observed, that your Majesty will in your own great Wisdom do therein for the good of your Kingdoms, Commerce, Shipping and Navigation, as to your Majesty shall seem requisite.

And your Petitioners shall ever Pray.

Will. Batten,	Will. Wood,	John Soame,	Peter Proby,
Will. Penn,	Nich. Bradley,	Charles Michel,	Andr. King,
Will. Rider,	Will. Greene,	Na. Houldings,	George Smith,
Nic. Harlestone,	Tho. Gates,	Peter Leare,	John Dickens,
Law. Moyer,	Joshua Waters,	Rich. Ford,	Will. Parker,
Brian Harrison,	Will. Clarke,	John Jollife,	John Heath,
Edw. Jonson,	Rob. Wood,	Rob. Canning,	Edw. Wambwel,
Daniel Gates,	George Percy,	John Harris,	Ant. Nicholetts,
John Lainbery,	John Frederick,	Tho. Warren,	Edw. Lewes,
Tho. White,	Tho. Bludworth,	Joseph Debins,	Tho. Culling,
Tho. Harman,	Tho. Brodrick,	Joseph Cambel,	Rich. David,
John Casse,	John Bull,	Tho. Davies,	James Young,
John Prowd,	Rich. Wescumb,	Will. Walker,	Nath. Tenche,
John Swanley,	John Mascall,	Rich. Adames,	George Maryet,
Will. Wilde,	David Skynner,	Rob. Ellis,	R. Church, Jun.
Jam. Modyford,	Tho. Andrews,	C. Bennet,	Nat. Townsend,
Robert Lant,	John Lemkuele,	Edw. Lopegood,	Jacob Wachter,
Greg. Wescumb,	Law. Blankcart,	Nich. Meade,	Pe. Heningbrook,
Will. Wescumb,	Tho. Bantry,	Sam. Put,	Rob. Gale,
Nich. Warren,	Godfrey Lee,	Tho. Canham,	Ger. Weyman,
Rich. Lant,	John Paige,	Tim. Alsop,	Nich. Skinner,
Jam. St. Hill,	Christop. Boone,	Tho. Tyte,	Edw. Bouverie,
John Marshal,	Peter Vandeput,	Dan. Ford,	Mich. Godfrey,
John Harbin,	John Moone,	Rob. Hooker,	And. West.
Philip Payne,	Alex. Bence,	Nich. Corfellis,	

FINIS.